

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JAMES DEAN WILKS,

Plaintiff,

v.

KING COUNTY, *et al.*,

Defendants.

CASE NO. C07-1720-RSM-MJB

ORDER DISMISSING TWO DEFENDANTS
AND DIRECTING SERVICE BY FIRST
CLASS MAIL AND PROCEDURES

This is a civil rights action brought pursuant to 42 U.S.C. § 1983. The Court, having reviewed plaintiff's complaint, does hereby ORDER as follows:

(1) Plaintiff identifies King County as a defendant in this action. A local government unit or municipality can be sued as a "person" under § 1983. *Monell v. Department of Social Servs., of City of New York*, 436 U.S. 658, 691 (1978). However, a municipality cannot be held liable under § 1983 solely because it employs a tortfeasor. *Id.* A plaintiff seeking to impose liability on a municipality under § 1983 must identify a municipal "policy" or "custom" that caused his or her injury. *Bryan County Commissioners v. Brown*, 520 U.S. 397, 403 (1997) (citing *Monell*, 436 U.S. at 694). Plaintiff does not identify any custom or policy that caused his alleged injuries. Accordingly, plaintiff's

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1 complaint is DISMISSED as to defendant King County pursuant to 28 U.S.C. § 1915(e)(2)(B).

2 (2) Plaintiff identifies Officer L. Jones as a defendant in this action. However, plaintiff
3 does not allege that Officer Jones violated any federally protected right. Moreover, the facts alleged
4 by plaintiff with respect to Officer Jones do not implicate federal constitutional concerns. Plaintiff,
5 therefore, has not adequately alleged a cause of action against Officer Jones. *See Crumpton v. Gates*,
6 947 F.2d 1418, 1420 (9th Cir. 1991). Accordingly, plaintiff's complaint is DISMISSED as to Officer
7 L. Jones pursuant to 28 U.S.C. § 1915(e)(2)(B)

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9 (3) Service by Clerk

10 The Clerk is directed to send the following to defendants Hansen, Owens, Stowers, Louis,
11 Anderson, Lamond, Bolzer, Colbert, Gailfus, Mease, Braden, and "Nurse Sue" by first class mail: a
12 copy of plaintiff's civil rights complaint, a copy of this Order, two copies of the Notice of Lawsuit and
13 Request for Waiver of Service of Summons, a Waiver of Service of Summons, and a return envelope,
14 postage prepaid, addressed to the Clerk's Office.

15 (4) Response Required

16 Defendants shall have **thirty (30) days** within which to return the enclosed waiver of service
17 of summons. Any defendant who timely returns a signed waiver shall have **sixty (60) days** after the
18 date designated on the notice of lawsuit to file and serve an answer to the amended complaint or a
19 motion permitted under Rule 12 of the Federal Rules of Civil Procedure.

20
21 Any defendant who fails to timely return a signed waiver will be personally served with a
22 summons and complaint, and may be required to pay the full costs of such service, pursuant to Rule
23 4(d)(2). A defendant who has been personally served shall file an answer or motion permitted under
24 Rule 12 within **thirty (30) days** after service.

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1 (5) Filing and Service by Parties, Generally

2 All attorneys admitted to practice before this Court are required to file documents
3 electronically via the Court's CM/ECF system. Counsel are directed to the Court's website,
4 www.wawd.uscourts.gov, for a detailed description of the requirements for filing via CM/ECF. All
5 non-attorneys, such as *pro se* parties and/or prisoners, may continue to file a paper original with the
6 Clerk. All filings, whether filed electronically or in traditional paper format, must indicate in the upper
7 right hand corner the name of the Magistrate Judge to whom the document is directed.

8 For any party filing electronically, when the total of all pages of a filing exceeds fifty (50)
9 pages in length, a paper copy of the document (with tabs or other organizing aids as necessary) shall
10 be delivered to the Clerk's Office for chambers. The chambers copy must be clearly marked with the
11 words "Courtesy Copy of Electronic Filing for Chambers."

12 Finally, any document filed with the Court must be accompanied by proof that it has been
13 served upon all parties that have entered a notice of appearance in the underlying matter.

14 (6) Motions

15 Regarding the filing of motions before the Court, the parties are directed to review Local Rule
16 CR 7 in its entirety. A few important points are highlighted below:

17 Any request for court action shall be set forth in a motion, properly filed and served. Pursuant
18 to amended Local Rule CR 7(b), any argument being offered in support of a motion shall be submitted
19 as a part of the motion itself and not in a separate document. **The motion shall include in its**
20 **caption (immediately below the title of the motion) a designation of the date the motion is to be**
21 **noted for consideration upon the court's motion calendar.**

22 In all instances where one of the parties to a lawsuit is incarcerated, **all** categories of non-

1 dispositive motions not listed in Local Rule CR 7(d)(1) must be noted for the third Friday after the
2 date of filing and service. This applies to all non-dispositive motions, even those which are normally
3 (if none of the parties are incarcerated) permitted to be noted 7 judicial days after filing. *See* Local
4 Rule CR 7(d)(2).

5 All dispositive motions shall be noted for consideration no earlier than the fourth Friday
6 following filing and service of the motion.

7 (7) Direct Communications with District Judge or Magistrate Judge

8 No direct communication is to take place with the District Judge or Magistrate Judge with
9 regard to this case. All relevant information and papers are to be directed to the Clerk.

10 (8) The Clerk is directed to send copies of this Order to plaintiff, to the King County
11 Prosecutor's Office, and to the Hon. Monica J. Benton.

12 DATED this 20 day of November, 2007.

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16 RICARDO S. MARTINEZ
17 UNITED STATES DISTRICT JUDGE

18 Recommended for entry this
19 19th day of November, 2007.

20 /s/ Monica J. Benton
21 Monica J. Benton
22 United States Magistrate Judge

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